

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

LENNY LERAY HENDERSON,
#83719,

Plaintiff,

V.

ANDY MACK, et al.,

Defendants.

Case No. 6:21-cv-431-JDK-KNM

ORDER ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Lenny Leray Henderson, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Before the Court is Defendants Andy Mack, Matthew Cooper, and the City of Longview's motion for summary judgment. Docket No. 40. On February 9, 2024, Judge Mitchell issued a Report and Recommendation recommending that the Court grant Defendants' motion and dismiss Plaintiff's claims in this case with prejudice. Docket No. 46. She further recommended that any of Plaintiff's claims that implicate his conviction should be dismissed with prejudice until the *Heck* conditions are met. *See Heck v. Humphrey*, 512 U.S. 477 (1994). A copy of this Report was sent to Plaintiff, and Plaintiff filed timely objections. Docket No. 48.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

In his objections, Plaintiff merely states that his only objection is “that was my money!” Docket No. 48. This neither addresses the substance of the Magistrate Judge’s Report nor identifies any error. The objection is therefore overruled.

Having conducted a de novo review of the record in this case and the Magistrate Judge’s Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff’s objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 46) as the opinion of the District Court and **GRANTS** Defendants’ motion for summary judgment (Docket No. 40).¹ Plaintiff’s claims that implicate his conviction are **DISMISSED** with prejudice until the *Heck* conditions are met. All other claims are **DISMISSED** with prejudice.

¹ The Court notes that although Defendant Robert Huhta is not a party to Defendants’ summary judgment motion, where a defending party establishes that a plaintiff has no cause of action, the defense generally also inures to the benefit of a nonmoving or unserved defendant. *See Lewis v. Lynn*, 236 F.3d 766, 768 (5th Cir. 2001); *see also Armenta v. Pryor*, 2009 WL 331876 *13 (E.D. Tex. Feb. 9, 2009) (dismissing unserved defendants where the plaintiff’s “allegations of retaliation are wholly conclusory and insubstantial, and insufficient to maintain a section 1983 action”). Judge Mitchell’s Report and Recommendation explains why Plaintiff’s claims against Defendant Huhta lack merit. *See* Docket No. 46 at 7–8.

So **ORDERED** and **SIGNED** this **26th** day of **February, 2024**.

A handwritten signature in black ink, reading "Jeremy D. Kernodle". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE